

The Kentucky Board of Interpreters for the Deaf and Hard of Hearing
Regular Board Meeting
December 16, 2011

A meeting of the Kentucky Board of Interpreters for the Deaf and Hard of Hearing was conducted on December 16, 2011 at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky.

Members Present

Artie Grassman, Board Chair
Daniel R. Roush, Vice Chair
Timothy E. Owens
Rita Zirnheld
Marcie Jeffers

Occupations and Professions

Karen Lockett, Board Administrator
Jeremy Horton, Deputy Executive Director

Absent

Joy Kiser
Hunter Bryant

Others

Michael West, Board Attorney
Virginia Moore - KCDHH
Vicki Brown - Applicant
Danette Tindal - Applicant
Molly Howard - KBI Interpreter
Tanesha Buckner - PPC Attorney
John Steffan - Executive Branch Ethics Commissions
Lori Gibbs - Intern

Call to Order

Mrs. Grassman, Chair called the meeting to order at 10:05 a.m.

Election of Officers

Ms. Hunter Bryant made a motion to nominate Mr. Roush as Chairman, Mr. Roush declined. Ms. Zirnheld nominated Mr. Owens for Chairman for a one (1) year term. Mr. Owens accepted. Mr. Roush seconded the motion. Motion carried.

Mr. Zirnheld made a motion to nominate Mr. Roush for Vice Chairman. Mr. Roush accepted. Ms. Jeffers seconded the motion. Motion carried.

Mr. Roush made a motion to nominate Ms. Zirnheld for Secretary. Ms. Zirnheld accepted. Ms. Jeffers seconded the motion. Motion carried.

Approval of Minutes

The Board reviewed the October 12, 2011 minutes. Mr. Owens made a motion to accept the October 12, 2011 minutes. Ms. Zirnheld seconded the motion. Motion carried.

Board Monthly Financial Report

The Board reviewed and discussed the financial report. Mr. Owens made a motion to accept the financial report. Mr. Roush seconded the motion. Motion carried.

Susan Ellis and Janet Cox from the O&P Fiscal Department to ensure that the board members are familiar with the travel voucher regulations regarding proper supporting documentation.

O&P Update - Jeremy Horton

Mr. Horton introduced Mrs. Courtney Bourne, Mr. Horton informed the board that Ms. Bourne's previous employment was at the Governor's Office and now will be the Executive Director of Occupations & Professions.

Mr. Horton presented the New Memorandum of Agreement for the Board to review and sign. Mr. Horton stated that O&P has been working over the past few months with the Office of the Attorney General, board counsel, to finalize the new MOA between each board and O&P. This new MOA will accurately describe the nature of services, meets all of the necessary terms and condition requirements of the Finance and Administration Cabinet and will replace any previous signed document. Mr. Owens made a motion to sign the new MOA. Ms. Jeffers seconded the motion. Motion carried.

Mr. Horton stated that the MOA will be in effect until June 30, 2012. Starting in FY 13-FY14, July 1, 2012, June 30, 2014, MOAs will be two (2) year agreements to coincide with the biennium budget process.

Mr. Horton presented an example of the RFP for Investigative services. Ms. Zirnheld made a motion to accept the RFP for Investigative Services with modification such as the total amount of the contract shall not exceed \$2,000.00 and change the names under the Evaluation Factors, and keep the points the same as presented. Mr. Owens seconded the motion. Motion carried.

Executive Branch Ethics Commission – John Stefan

Mr. John Stefan attended the KBI meeting to discuss the Annual Ethic Training. Mr. Stefan stated that the boards and their respective administrators that beginning in July of 2011, at the Governor's request, personnel of the Executive Branch Ethics Commission will offer training to Executive Branch boards and commissions on the requirements placed on board members by Executive Order 2008-454, paragraphs 6, 7, 8 and 9, and Executive Order 2009-882. Mr. Stefan stated for the board to keep in mind that they do not have the authority to advise individual board members on ethical issues and should refer them to the Executive Branch Ethics Commission on the ethical questions pertaining to their personal conduct, but also stated that they do have the authority to advise the board as a whole and it is a good idea for the board in turn to seek guidance from the Executive Branch Ethics Commission where the issue is not clear cut. Mr. Stefan also discussed the Prohibition against self dealing, Obligation to disclose and abstain, and the acceptance of gifts.

Board Chair Report – Artie Grassman

Mrs. Grassman sent the Directors of Special Education an explanation of licensure for Interpreters. Mrs. Grassman stated that the Interpreters who receive a temporary license are given up to 5 years in which to obtain full licensure by passing a national certification written and performance test. The initial license is good for 2 years and then they can request an extension each year for up to three years. They work under a fully licensed interpreter with a Supervision plan. Mrs. Grassman discussed the Interpreters who received a Temporary license prior to 2007, Interpreters who received a Temporary license as of July 1, 2007 or later, and Hiring an Interpreter under a different position title. Mrs. Grassman also stated that KBI has been working diligently to include the EIPA, Educational Interpreting Performance Assessment at the appropriate level, to stand for a full license. Mrs. Grassman stated that the first (1st) attempt was to establish an educational license track. However, according to the Legislative Research Commission (LRC), the board does not have the statutory authority to establish a separate licensure "track".

On November 20, 2011 the KBI Board had a Public Hearing, Mr. Mark Brengelman, Attorney General Office and Mrs. Artie Grassman, Board Chair attended. Ms. Vicki Brown, KSD, Ms. Linda Bozeman, Private Citizen, Ms. Virginia Moore, Executive Director, KCDHH, and Derek Drury, KCDHH attended. Ms. Vicki Brown comment was on KAR 39:030. NAD III is the one RID certification that the KBI has chosen not to accept. Ms. Brown stated that KBI starting urging people to take the EIPA and obtain a score of 3.5 to eligible for a full license under the new proposed regulations. The KBI Policy committee also recommended the EIPA 3.5 be accepted as a full license. Ms. Linda Bozeman stated as Chair of the Policy Committee, with stakeholders across the board, and KBI supported the EIPA 3.5 and the NIC written test or EIPA written test. The original proposed regulations submitted last spring had a tracking system for General, Educational and Deaf Interpreting Licenses. The LRC deemed it not acceptable. KBI then reconsidered and rescinded the EIPA 3.5 and adopted RID certifications, which accept the EIPA at 4.0 only and the EIPA written test. If the Board follows national standards, then they should follow all and accept the recommendations of the policy committee. The EIPA 3.5 is accepted by 20 states but the KBI did not accept it because they felt interpreters would accept jobs for which they were not qualified. This is not a certification or licensure issue it is a code of ethics issue. We all face it every day – Whether you hold an NAD III certification or an NIC. The KBI should support the EIPA 3.5 or better with either NIC or EIPA written and accept the NAD III for full licensure. Ms. Virginia Moore comment was on 39:010 – Definition. If we accept all certifications recognized by RID and not list individual certifications in the definitions, then we will be consistent. Also, we will not be having to continually changing the regulations to keep up with changes made by RID. RID will be making changes, 39:030 We need to be consistent and include the NAD III and the EIPA 4.0 RID will be making changes, 39:120, Sec (2), Add language to the effect that if a person is practicing outside of the parameters of their certification, it could be a breach of the code of ethics and the interpreter may be subject to disciplinary action by the board. Mr. Derrick Drury – comment was on 39:030 the board needs to accept the NADIII because if we are going to accept all of the certifications recognized by RID, then we need to accept ALL. 39:120 the language in the section needs to be strengthened under ethical provisions so the board can take action if an interpreter is practicing outside of their area of certification. Russell Anderson stated that he was contacting the board concerning the current regulations as well as the new regulations being considered. Having both chaired the subcommittee that drafted the current regulations and then becoming a board member enforcing those same regulations, I reflect with much regret. Mr. Russell stated that it is clear that the regulations and the regulation process itself are not able to keep up with the rapid changes of RID. Mr. Russell stated that if the board, himself included, had followed the regulations, they would not have been able to approve any NIC certified people for a permanent license for the past five years. Mr. Russell stated that there are a couple of concerns the board has with NAD III is that NAD III interpreters would take jobs they are not qualified to do. This is an ethical issue, not a certification issue. In the past the board

had NAD III as well as other RID certified interpreters make unethical decisions and the board addressed them and dealt with those interpreters. To not accept NAD III due to ethical violations suggests that the board lacks either the competency or ability to address

the complaint filed with the board, neither of which Mr. Russell believes are the case. In closing Mr. Russell stated that he wanted to strongly encourage that the board recognize any and all certifications that the Registry of Interpreters for the Deaf and Hard of Hearing recognize because the regulations, as they are currently written, have failed to keep up with the certifications changes that have occurred within RID and is a detriment to the general public because it prohibits qualified interpreters from obtaining a permanent license and practice interpreting in the state of Kentucky. Ms. Vicki Brown requested to listen to the comments given from the hearing at the board meeting and Mr. West, Board Counsel stated that the recording was not available due to technical issues of the recorder.

The Board received a Petition from individuals, strongly opposed to the idea of NAD III be considered a full licensure for the following reasons. **1)** The board was established to ensure that a person who represented himself or herself as an interpreter is qualified to engage in the practice of interpreting. The board was established in 2003 to ensure the Deaf consumers will receive appropriate skills of interpretation. **2)** The qualification as stated in RID's website on NAD III is NAD III (Generalist) – Average Performance. Holders of this certification possess above average voice-to-sign skills and good sign-to-voice skills or vice versa. The individual has demonstrated the minimum competence needed to meet generally accepted interpreter standards. Occasional words or phrases may be deleted but the expressed concept is accurate. The individual displays good control of the grammar of the second language and is generally accurate and consistent, but is not qualified for all situations. **3)** Because NAD III indicated that the individual only possess a minimum competence of certain skills and that the individual is NOT qualified for all situations, this means the interpreter receiving full licensure will be able to interpret in many situations that they are not qualified for. **4)** In the past ten years, we undersigned have experience using interpreter with NAD III and we can say with confidence the interpreter is not qualified to be interpreter. To give them the status quo as a fully licensure only further the belief that businesses and agencies will use them in any given situation. **5)** When the Kentucky Legislative passed the law, the intent was to ensure that Deaf individuals received some sort of protection. NAD just stopped administered the testing and all the individuals at the time with NAD IV and V will be "grandfather" into the RID certification body. NAD III was added later after much pressure from the interpreting community to include this. **6)** Individuals who were interpreting with NAD III were able to become temporarily licensure when the law went into effect in July, 2003. It is now eight years since, interpreters with NAD III who wish to have full licensure went on to obtain a higher certification. They are to be commended for making this effort. Some individuals with NAD III were not able to pass the higher certification examination even after making several efforts. We, the undersigned, stated if a "backdoor" to becoming a fully licensure. This is an insult not only to the interpreters who have strived to be an interpreter that has a higher standard but to the Deaf Community who has experienced backlashes from interpreters who are NAD III and misrepresented themselves as fully qualified interpreter. **7)** Granted that RID recognizes NAD III as one of interpreting certification, however we as Kentuckians pride ourselves to the higher standard we placed on the interpreters. **8)** Deaf Kentuckians have the right to be protected under the State Law that was set forth in 2003. Nothing less should be considered which in fact, higher standard should always be set as progressed into the future. By allowing NAD III to be fully licensed, you are stating the interpreters have more rights than us Deaf Kentuckians.

Licensure Status Report

223 – Full Licensure

68 – Temporary Licensure

Board Counsel – Michael West

Revision of Regulations – Mr. West informed the board he will file with AARS for review in February, 2012. Mr. West will send the Summary of all comments to LRC and then should be effective in March, 2012. Mr. Owens made a motion to submit the consideration to LRC and for Mr. West to send the Board Chair a draft copy. Ms. Zirnheld seconded the motion. Motion carried.

The Board received a letter from Mr. Jeffery Hoover, Attorney at Law, stating that the letter was on behalf of his client, Ms. Vicki Brown of Russell Springs, Kentucky with regard to her license as an interpreter. He asked the board to grant Ms. Brown a temporary license until the proposed new regulations which are pending are finally approved. Mr. Owens made a motion for Mr. West, Board Counsel to send Ms. Brown's Attorney a letter stating that Ms. Brown will qualify when the regulations go into effect. Ms. Zirnheld seconded the motion. Motion carried.

Complaints

Compliant #1106 – Ongoing

Mr. Owens made a motion to investigate Mr. Jim Cornett for practicing without a Interpreter license. Ms. Zirnheld seconded the motion. Motion carried.

Mr. West, Board Counsel presented a Verified Complaint for Injunctive Relief for Complaint # 1106. Ms. Grassman, Board Chair signed along with the Notary Public Tamara Layne Nichols (Hawkins).

New Business

The Board received a letter from Ms. Virginia L. Moore, Executive Director on December 6, 2011. Ms. Moore also attended the December 16, 2011 board meeting. The letter from Ms. Moore stated that KRS 163.510 mandates KCDHH to review legislative programs relating to services to deaf and hard of hearing persons and to oversee the provision of interpreter services to the deaf and hard of hearing. Pursuant to KRS 163.510 and as the Board finalizes its efforts and submits regulatory amendments to the Legislative Research Commission, KCDHH asks the Board to take the following recommendations into consideration. **1)** As testified by KCDHH during the public hearing on November 21, 2011, KCDHH supports accepting all certifications issued by the Registry of Interpreters for the Deaf (RID) Inc. for licensure (including the ED:K-12 and the National Association of the Deaf (NAD Level III). Accepting all certificates issued by the RID allows Kentucky's Administrative Regulations longevity and relevance as new or modified certificates emerge, and prevents unnecessary amendments in the future if additional certifications are issued by that National governing body. The KCDHH also recommends removing the definitions of the various certifications from the regulations to avoid outdated and, under the applicable regulation, enumerating requirements for licensure by simply using verbiage such as accepting "certifications issued by the RID". **2)** KCDHH understands that the NAD Level III certificate has not been previously accepted for licensure under Kentucky Administrative Regulations, which set a higher standard here in Kentucky. We also understand the community's concerns surrounding the acceptance of this certificate. Because of this history, if possible we would recommend that NAD III certification level remain a temporary licensure. **3)** Kentucky does not have a testing system in place to independently evaluate an individual's interpreting skills and abilities. It is difficult for Kentucky to determine evaluation results of an individual's skill and abilities, contradictory to the national certificate, without using a separate testing mechanism that is scientifically and psychometrically valid and reliable. Therefore, until Kentucky can establish a valid testing system, and since the RID holds certifying authority, Kentucky should follow the RID's recommendations of acceptable certificates. **4)** To maintain the quality of interpreting services provided to deaf and hard of hearing Kentuckians who rely on Sign Language to communicate while accepting previously excluded certifications, KCDHH supports the ethical provision added to the regulations by the Board clearly stating that an interpreter practicing in situation s outside the realm of their certificate description (e.g. Ed:K-12, which requires and EIPA 4.0, in anything other than K-12 settings; OIC or OTC in anything other than oral interpreting) may be brought u p on ethical violations and subject to disciplinary action from the KBI. KCDHH also recommends that the KBI issue hard copy licenses listing the interpreter's specific certification(s) obtained and the appropriate settings. Combined, these two efforts will allow the Board authority to take action against those interpreters who choose to practice in arenas not qualified by their respective certifications and also helps the community at -large understand applicable situations for the interpreter's skills and abilities.

Reinstatement Review

Mr. Owens made a motion to approve the Reinstatements as specified below:

- Julie A Buckham - Approved
- Danette Tindal - Approved Pending

Mr. Roush seconded the motion. Motion carried.

Ms. Tindal attended the board meeting to discuss her reinstatement. The board reviewed Ms. Tindal's reinstatement. Ms. Bryant made a motion to Approve-Pending that Ms. Tindal submit a recommendation from her old supervisor Ms. Robyn Hart and a recommendation letter from Ms. Tindal's new supervisor and a new supervision plan. Ms. Jeffers seconded the motion. Motion carried.

Full Licensure Review

Mr. Owens made a motion to take the following actions on the Full Licensure applications as specified below:

- Becky Bush - Approved
- Krystal Trimble - Approved

Ms. Jeffers seconded the motion. Motion carried.

Temporary Licensure Review

Mr. Owens made a motion to take the following actions on the Temporary Licensure applications as specified below:

- Maria Barnes - Approved
- Katherine Bell- Deferred
- Amanda Bigner - Approved
- Edward Brinegar - Approved
- Shannon Maggard - Approved

- Kayla S. Osborn - Approved
- Lisa Tromm - Approved
- Brian Tyler - Approved

Ms. Jeffers seconded the motion. Motion carried

Approval of Travel

Mr. Owens made a motion to approve Travel for eligible board members. Ms. Zirnheld seconded the motion. Motion carried.

Adjournment

Mr. Owens made a motion to adjourn the meeting at 5:20 p.m. Ms. Jeffers seconded the motion. Motion carried.

Next Board Meeting Date

February 22, 2012 @ 10:00 p.m.

2012 Board Meeting Dates

February 22, 2012 @ 10:00 a.m.

May 2, 2012 @ 10:00 a.m.

August 29, 2012 @ 10:00 a.m.

Approved:

Artie Grassman, Board Chair

**Minutes Prepared by Karen Lockett, Board Administrator
December 16, 2011**